

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESale PRICE LITIGATION	MDL No. 1456 Master File No. 01-CV-12257-PBS
THIS DOCUMENT RELATES TO: <i>The State of Florida, ex rel. Ven-A-Care of the Florida Keys, Inc. v. Alharma, Inc., et al., C.A. No. 05-CV-11795-PBS</i>	Judge Patti B. Saris

**MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE IN
OPPOSITION TO MOTION BY STATE OF FLORIDA AND VEN-A-CARE
TO PARTICIPATE IN JANUARY 27TH HEARING REGARDING REMAND**

Mylan Laboratories Inc., Mylan Pharmaceuticals Inc., Novopharm, Ltd., Teva Pharmaceutical Industries Ltd., Teva Pharmaceutical USA, Watson Pharmaceuticals, Inc., and its subsidiary Schein Pharmaceutical, Inc. (now known as Watson Pharma, Inc.) (collectively, the “Mylan Defendants”),¹ defendants in the action entitled *The State of Florida, ex rel. Ven-A-Care of the Florida Keys, Inc. v. Mylan Laboratories Inc., et al.*, C.A. No. 05-CV-490, currently pending in the United States District Court for the Northern District of Florida (the “Mylan action”), hereby move for leave to file a brief as *amici curiae* in opposition to the motion by the State of Florida and Ven-A-Care of the Florida Keys, Inc. (collectively, the “Plaintiffs”) to participate in the January 27, 2006 hearing regarding their motion to remand *The State of Florida, ex rel. Ven-A-Care of the Florida Keys, Inc. v. Alharma, Inc., et al.*, C.A. No. 05-CV-11795-PBS (the “Alharma action”) to state court.

The grounds for this motion are stated in the Brief of *Amici Curiae* in Opposition to Motion by State of Florida and Ven-A-Care to Participate in January 27th Hearing Regarding Remand.

¹ Novopharm, Ltd. and Teva Pharmaceutical Industries, Ltd. join in this motion and brief of *amici curiae* only for the limited purposes of this motion, and do not concede that the court has personal jurisdiction over them.

WHEREFORE, for the reasons set forth in the memorandum described above, the *Mylan* Defendants respectfully request that the Court: (1) deny the motion by the Plaintiffs to participate in the January 27, 2006 hearing regarding their motion to remand the *Alpharma* action to state court; and (2) enter a stay in the *Alpharma* action until either: (a) entry of a transfer order by the Judicial Panel on Multidistrict Litigation (the “JPML”) transferring the *Mylan* action to this Court for consolidated and coordinated pretrial proceedings in *In Re: Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 and the Plaintiffs’ motion to remand the *Mylan* action to state court is fully briefed before this Court; or (b) entry of an order by the JPML denying transfer of the *Mylan* action to this Court.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Undersigned counsel for Mylan Laboratories Inc. and Mylan Pharmaceuticals Inc. hereby certify that they have conferred with counsel for Plaintiffs the State of Florida and Ven-A-Care of the Florida Keys, Inc. in a good faith attempt to narrow or resolve the issues presented by this motion.

Dated: January 12, 2006

Respectfully submitted,

ON BEHALF OF DEFENDANTS LISTED BELOW

/s/ Louis J. Scerra, Jr.
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CERTIFICATE OF SERVICE

I, Louis J. Scerra, Jr., hereby certify that on January 12, 2006 I caused a true and correct copy of the foregoing, Motion for Leave to File Brief of *Amici Curiae* in Opposition to Motion by State of Florida and Ven-A-Care to Participate in January 27th Hearing Regarding Remand, to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 in MDL No. 1456.

/s/ Louis J. Scerra, Jr.
Louis J. Scerra, Jr.